

Decision 06-06-020 June 15, 2006

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Georgi Demetrov Nikolov and Christian Georgiev Demetrov, doing business as Western Eagle Shuttle and Marin Airport Transportation for authority to operate as a passenger stage corporation between points in Marin, San Francisco, Sonoma and Alameda Counties and the San Francisco, Oakland and San Jose International Airports and to establish a Zone of Rate Freedom.

Application 05-12-031  
(Filed December 28, 2005)

**OPINION GRANTING APPLICATION**

**Summary**

This decision grants the application of Georgi Demetrov Nikolov and Christian Georgiev Demetrov (Applicants), doing business as Western Eagle Shuttle and Marin Airport Transportation, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

**Discussion**

The application requests authority to operate as an on-call PSC to transport passengers and their baggage between points in Marin, San Francisco, Sonoma and Alameda Counties and the San Francisco, Oakland and San Jose International Airports. Passenger traffic between points in the Marin, San

Francisco, Sonoma and Alameda Counties and the three Bay Area airports is increasing substantially and this growth is forecast to continue for the foreseeable future. At present, 41 million passengers a year pass through San Francisco International Airport and the number is projected to grow to 52 million a year in the next ten years. Oakland and San Jose Airports show a similar growth pattern. This growth has created a need for multi-passenger services to reduce traffic congestion and delays at the airports resulting from the increased presence of private cars. Applicants' vans carry seven to nine passengers each and will benefit the public by reducing travel delays, air pollution and fuel consumption. They have more than four (4) years experience as drivers and dispatchers for an airport shuttle van service as well as additional prior business experience. Attached to the application is an exhibit that discloses assets of \$88,000, liabilities of \$25,000 and a net worth of \$63,000.

The proposed adult fares range from a low of \$35 for transportation between several points in Marin and San Francisco International Airport to a high of \$220 for transportation between St. Helena and San Jose International Airport. Applicants request authority to establish a ZORF of between \$3 and \$25 above and below standard tariff charges to meet existing price competition. The requested ZORF is generally consistent with the ZORFs held by other PSCs, and we will authorize this ZORF.

Notice of the above-entitled application appeared in the Commission's Daily Calendar on December 28, 2005. Applicants served a notice of the application to the involved cities and counties, and the public transit agencies in the service area. No protests were received during the 30-day protest period. On February 17, 2006, Marin Door To Door, Inc., an existing PSC, filed a motion to waive the 30-day protest period and accept a protest. On May 10, 2006, the

assigned Administrative Law Judge denied the motion for failure to show good cause.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3165 dated January 13, 2006, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received other than the late-filed protest which was rejected by the assigned Administrative Law Judge. Given this status, public hearings are not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3165.

### **Comments on Draft Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Rochelle Chong is the Assigned Commissioner and Karl Bemederfer is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. The application requests authority to operate as an on-call PSC to transport passengers and their baggage between various points in Marin, Sonoma, Alameda and San Francisco Counties and the San Francisco, Oakland, and San Jose International Airports.
2. Public convenience and necessity requires the proposed service.
3. Applicants request authority to establish a ZORF of \$3 to \$25 above and below his proposed one-way fares.

4. Applicant will compete with other PSCs, taxicabs, charter vehicles and private automobiles in his operations. The ZORF is fair and reasonable.

5. No protest to the application has been filed.

6. A public hearing is not necessary.

### **Conclusions of Law**

1. Public convenience and necessity has been demonstrated and the application should be granted.

2. The request for a ZORF should be granted.

3. Before Applicants change any fares under the ZORF authorized below, Applicants should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.

4. Since the matter is uncontested, the decision should be effective on the date it is signed.

5. Only the amount paid to the State for operative rights may be used in rate setting. The State may grant any number of operative rights.

## **O R D E R**

### **IT IS ORDERED** that:

1. A certificate of public convenience and necessity (CPCN) is granted to Georgi Demetrov Nikolov and Christian Georgiev Demetrov, doing business as Western Eagle Shuttle and Marin Airport Transportation authorizing them to operate as a passenger stage corporation as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix A to the application, subject to the conditions contained in the following paragraphs.

2. Applicants shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized serve and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Order Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation Law of this state.
- h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Applicants are authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$3 to \$25 above and below their proposed one way fares, as set forth in the application.

4. Applicants shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.

5. Applicants may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff

shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

6. In addition to posting and filing tariffs, Applicants shall post notices explaining fare changes in their passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Applicants are authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicants that their evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicants' vehicles for service.

8. Before beginning service to any airport, Applicants shall notify the airport's governing body. Applicants shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN granted herein expires unless exercised within 120 days after the effective date of this order.

10. The ruling of the assigned Administrative Law Judge denying the motion to waive the 30-day protest period, as discussed in the foregoing opinion, is confirmed.

11. The application is granted as set forth above.

12. Application 05-12-031 is closed.

This order is effective today.

Dated June 15, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH

A.05-12-031 ALJ/KJB/eap

JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners